IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/09/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION No.8767 OF 1997.

S.Thanapackiyam ... Petitioner

-Vs-

1. The Government of Tamil Nadu,
rep.by its Secretary,
Backward Classes and
Most Backward Classes Welfare,
Fort St.George,
Madras-9.

2. The Special Tahsildar,
Adi Dravidar Welfare,
Paramakudi. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for the relief as stated therein.

For petitioner : No Appearance

For respondents : Mrs.Malarvizhi,
Govt.Advocate

:O R D E R

The above Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the Notification under Section 4(1) of the Land Acquisition Act issued under G.O.(3D) 36, dated 1.6.19 95 and published in the Government Gazette, dated 25.6.1995 and in the local newspaper on 1.7.1995 and the declaration under Section 6 of the Act issued under G.O.(3D) No.54, dated 4.s7.1996 published in the Government Gazette dated 5.7.1996 and quash the same.

2. The lands in questions are sought to be acquired by the respondents for the purpose of providing house sites to the denotified communities of Kattuparamakudi village, Paramakudi Taluk of Ramanathapuram District. The petitioner is challenging the said land acquisition proceedings on ground that Notification under Section 4(1) of the Land Acquisition Act was issued on 1.6.1995 and published in the Gazette on 28.6.1995 and was published

in the local newspaper on 1.7.1995 but the declaration under Section 6 of the Act was issue dunder G.O.(3D) No.54 on 4.7.1996 and since the same was made after one year thus flouting the provisions of Section 6(1)(ii) of the Land Acquisition Act, which provides that no declaration shall be made after the expiry of one year from the date of publication of the Notification, the entire proceedings are to be quashed.

3. But, as could be seen from the materials placed on record, the last mode of publication of the Section 4(1) Notification is reckoned in this case as the last date for the purpose of publication of Draft Declaration under Section 6 of the Act and as such, since the substance of the Section 4(1) Notification was published in the locality on 7.7.1995 and the Draft Declaration under Section 6 was published in the Gazette on 5.7.1996 i.e. well within one year, there is no delay as submitted on the part of the petitioner. Hence, this ground raised on the part of the petitioner cannot sustain.

4. Regarding the other ground raised by the petitioner that the substance of the Notification was not published in the locality, as already stated, it is seen from the records that the same was published in the locality on 7.7.1995 and hence this ground raised on the part of the petitioner also cannot sustain.

5. The other ground raised by the petitioner is that the land in question is the only land belonging to her and hence if the lands are acquired, she will become a landless poor. But, even according to her own affidavit, it is clear that she is not an agriculturist but running a brick-kiln in the land. On the part of the respondents, it is submitted that the petitioner is owning a terraced house in Paramakudi town and her son is also working as Lab Assistant in the Government Hospital and also running his own laboratory at Paramakudi town. Therefore, having regard to the rival contentions, this ground raised by the petitioner also does not hold water and for all the above reasons assigned, the only conclusion that could be arrived at in the circumstances of the case is to dismiss the above writ petition.
In result, the above writ petition fails and the same is dismissed.
No costs.

Index: Yes

Internet: Yes

Rao

To

1. The Secretary to the Government
of Tamil Nadu,
Backward Classes and
Most Backward Classes Welfare,
Fort St.George,
Madras-9.

2. The Special Tahsildar,
Adi Dravidar Welfare,
Paramakudi.